IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

JUDGMENT
IN
S.B. Criminal Appeal No.1038/2001

Pappi @ Tejendra Pal S/o Shri Inderjeet Singh
Versus
State of Rajasthan through PP

Date of Judgment :::: 9th May, 2007

PRESENT
Hon'ble Mr. Justice Narendra Kumar Jain

Shri S.S. Hora, Advocate, with
Shri Vijay Gupta, Counsel for accused-appellant
Shri Raj Kumar Goyal, Counsel for complainant
Shri B.N. Sandu, P.P., for the State

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By the Court:-

The matter was listed for further orders on the application for suspension of sentence of the accused-appellant and the reason behind this was that in spite of suspension of sentence of the appellant, he did not furnish the bail-bonds in pursuance of the order dated 29.8.2006. The learned counsel for the appellant contended that the appellant has already remained in jail for about six years and the total sentence awarded by the trial court against him is 10 years RI with fine of Rs.2,000/-, therefore, his appeal itself may be heard and disposed of finally.

Learned counsel for the State as well as the complainant, both, have no objection in case the appeal itself is heard and disposed of finally.

On the request of the learned counsel for the parties, the appeal is heard finally and being disposed of.

The Additional District & Sessions Judge No.1 (Fast Track), Kota, vide its judgment and order dated 22.11.2001, in Sessions Case No.111/2001, convicted and sentenced accused-appellant Pappi @ Tejendra Pal S/o Shri Inderjeet Singh under Section 307, IPC, to undergo 10 years rigorous imprisonment and a fine of Rs.2,000/-; in default of payment of fine, to further undergo one month's additional simple imprisonment.

The learned counsel Shri S.S. Hora, appearing on behalf of the appellant, argued the case on merits, but, during the course of arguments, in view of the statement of injured Kailash (PW-1), whose statement is corroborated by PW-9 Dilip Kumar, PW-2 Dr. R.K. Sharma, and keeping in view the injury-report (Exhibit P-3), rightly did not challenge the order of conviction passed by the trial court against the appellant and his only prayer is that the appellant has already remained in jail for about six years, therefore, his sentence may be reduced to a period of imprisonment already undergone by him.

The learned Public Prosecutor as well as the learned counsel for the complainant, both, have opposed the prayer of the learned counsel for the

appellant to reduce the sentence of imprisonment awarded against the accused-appellant.

I have considered the submissions of the learned counsel for the parties and examined the impugned judgment as well as the record of the trial court.

As the order of conviction passed by the trial court has not been challenged by the learned counsel for the appellant and rightly so in view of the statement of injured Kailash (PW-1), who stated that accused Pappi @ Tejendra Pal threw acid on his person thereby he sustained injuries, and whose statement is corroborated by PW-9 Dilip Kumar, and further the injury-report (Exhibit P-3) which is proved by Dr. R.K. Sharma (PW-2), I do not think it fit and proper to refer and discuss the facts of the case, in detail.

So far as the prayer of the learned counsel for the appellant regarding reduction of sentence of imprisonment is concerned, after considering all the facts and circumstances of the case, I find this case to be a fit one to reduce the sentence of the appellant to a period of 7 years rigorous imprisonment.

This Court in S.B. Criminal Appeal No.984/2002 - Chhagnaram S/o Sultan Singh Meena Vs. State of Rajasthan, decided on 24.1.2007, considered various judgments of the Hon’ble Apex Court as well as of this

Court and, while reducing the sentence of the accused in that particular case under Section 307, IPC, to 5 years and 15 days rigorous imprisonment, already undergone by him, held as under:-

> "So far as question of reduction of sentence of imprisonment under Section 307/34, IPC, is concerned, there is no dispute in between both the parties that the accused-appellant has already remained in jail for about five years and fifteen days and in case the period of remission is also included in it then this period may come to approximately six years.
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> In Bappa @ Bapu Vs. State of Maharashtra (Supra) the Hon'ble Supreme Court reduced the sentence of ten years RI to a period of five years RI under Section 307, IPC. Para 11 of the judgment is reproduced as under:-
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> > "11. The residual question is whether a sentence of 10 years rigorous imprisonment is justified. No doubt, as noticed by the trial Court and the High Court, injuries inflicted on the victim were of serious nature. But considering the background facts and peculiar features of the case, custodial sentence of 5 years rigorous imprisonment would meet the ends of justice."
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> In Bhoop Ram Vs. State of Rajasthan (Supra) this Court reduced the sentence of 7 years RI under Section 307 IPC to 5 years RI.
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> In Surain Singh Vs. State (Supra) this Court reduced the sentence under Section 307 IPC to a period of 4 years already undergone by the appellant and also to pay a fine of Rs.1000/-.
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> In Ram Pratap Vs. State (Supra) this Court reduced the sentence of imprisonment

under Section 307 IPC to 5 years RI.

In Gulam Dastgeer Vs. State (Supra) this Court reduced the sentence of 4 years RI to a period of two years RI under Section 307 IPC.

In Prahlad Ram Vs. The State of Rajasthan (Supra) this Court reduced the sentence of 1 year's SI under Section 307 IPC, to 45 days imprisonment already undergone by the accused.

After considering the nature of charge and the statement of the injured PW-1 Ramdulari and the injury-report (Exhibit P-8), I think it fit and proper that a period of 5 years and 15 days RI already undergone by the accused-appellant with fine, which is increased to Rs.12,000/- (Rupees twelve thousand), will meet the ends of justice."

After considering all the facts and circumstances of the case and the keeping in view the above referred judgments, I am of the view that ends of justice will meet in case the appellant is awarded sentence of 7 years rigorous imprisonment with fine of Rs.2,000/-.

Consequently, the appeal is partly allowed. The conviction of the accused-appellant under Section 307. IPC, is maintained, but his sentence of 10 years rigorous imprisonment awarded by the trial court is modified and he is sentenced to 7 years rigorous imprisonment with fine of Rs.2,000/- (Rupees two thousand only); in default of payment of fine, to further undergo one month's additional simple imprisonment.

(Narendra Kumar Jain) J.

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